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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,677	09/30/2003	Lyle E. Grosbach	ROC920030060US1	6751
30206 7590 07/25/2008 IBM CORPORATION ROCHESTER IP LAW DEPT. 917 3605 HIGHWAY 52 NORTH ROCHESTER, MN 55901-7829				
EXAMINER MOORE, IAN N				
ART UNIT 2616		PAPER NUMBER		
MAIL DATE 07/25/2008		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

**Application No.**

10/675,677

**Applicant(s)**

GROSBACH ET AL.

**Examiner**

IAN N. MOORE

**Art Unit**

2616

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 14 July 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/Ian N. Moore/  
Primary Examiner, Art Unit 2616

Continuation of 11, does NOT place the application in condition for allowance because:

Regarding claims 1-18, the applicant argued that, "...the cited reference does not disclose...selecting a second winning entry...indicating a second pipe or an autonomous flow to be serviced during the time unit..." in page 8-11.

In response to applicant's argument, the examiner respectfully disagrees with the argument above.

Pei discloses selecting a first winning entry (see FIG. 5, identify/select a first content/entry) from one of a plurality of main calendars (see FIG. 5, from lists in the schedule table) during a time unit (see FIG. 5, during a time), the first winning entry indicating a first pipe (see FIG. 5, identify/selected a first VPC) to be serviced during the time unit (see FIG. 5, a first content/entry to be serviced identifies a first VPC to be serviced during a time; see FIG. 1A, Method S1-S3; see col. 5, line 14-30; see col. 10, line 64 to col. 11, line 16, 45-60; see col. 12, line 30-40);

determining that no pipe flow corresponding to the winning first pipe currently needs to be serviced during the time unit (see FIG. 1A, S3, S5, S11; when there is no cell ready to send for HP VCC (e.g. CBR/VBR) associated with this VPC during the transmit time; see col. 5, line 33-34, see col. 6, line 7-11; see col. 11, line 13-16);

selecting a second winning entry (see FIG. 5, identify/select a second entry/content to be serviced) from the plurality of main calendars during the time unit (see FIG. 5, from lists in the schedule table during a time), the second winning entry indicating a second pipe (see FIG. 5, identify/selected a second VPC) or autonomous flow (see FIG. 5, identify/selected separate/independent/autonomous VCC associated with a first VPC) to be serviced during the time unit (see FIG. 5, a second admission/entry identifies a second VPC or separate/independent/autonomous VCC to be serviced during a time; see FIG. 1A-B, Method S5-S9, S11, S13; when there is no cell ready to send in first VCC (e.g. CBR), the opportunity is passed to high/low priority second VPC, or low priority separate/independent/autonomous VCC of a first VPC; see col. 5, line 30 to col. 6, line 25; see col. 11, line 5-25); and servicing the autonomous flow or pipe flow corresponding to the second winning entry during the time unit (see FIG. 1B, S11, S13, S16; see FIG. 5, servicing high/low priority second VPC, or low priority separate/independent/autonomous VCC of a first VPC; see col. 6, line 6-55; see col. 11, line 5 to col. 12, line 65).

In view of the above, note that Pei identify/select a second entry/content to be serviced from lists in the schedule table during a time, where this time is allocated for a first high priority VCC, but there is no cell ready to send in first high priority VCC (e.g. CBR), the opportunity is passed to high/low priority second VPC, or low priority separate/independent/autonomous VCC of a first VPC.

Thus, Pei clearly anticipated applicant broadly claimed invention.